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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

McGregor, et al

Serial No: 08/749,721

Filed: 15 November 1996

For: MOBILE PHONE WITH INTERNAL
ACCOUNTING

Examiner: Gesesse, T.

Group Art: 2746



Atty Dkt: 12765

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BOX FEE-AMENDMENT
Assistant Commissioner
for Patents
Washington, D.C. 20231

Sir:

Carrie L. S. 14 July 1999

THIRD SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT
WITH FEE UNDER 1.97(a)

As referenced in prior Information Disclosure Statements, U.S. Patent No. 5,577,100 is the subject of a patent infringement action in the Northern District of California, Case No. C 98-0002 CW ENE, entitled, Telemac Cellular Corp. v. Topp Telecom, Inc. From that action, Applicants submit a copy of the Court's ORDER ON CROSS-MOTIONS FOR SUMMARY JUDGMENT, dated July 1, 1999.

In that ORDER, page 4-5, reference is made to a letter dated July 14, 1992 sent by Scott McGregor, one of the joint inventors of the subject invention, to Scott Silvey, a Market Manager for cellular telephone provider, GTE MOBILE GTE. The Court found that "there was neither a definite offer nor an actual sale of the debit phone discussed in the letter." (ORDER, p. 16, lines 9-10). The Court further found, as a matter of law, "that the

.. letter was not a 'commercial offer for sale,' within the meaning of Pfaff...." (Pfaff v. Wells Electronics, Inc., 119 S. Ct. 304, 309 (1998)).

A complete copy of the referenced letter accompanies this Information Disclosure Statement for placement in the file of this application. It is apparent from the letter that this was not an offer for sale, but a request for advice and a solicitation of ideas made between industry acquaintances, as was recognized by the Court. The letter is not considered prior art for listing.

The Court's Order also included findings that the defendant's phone did not include certain features of the claims of the litigated patent.

It is sincerely believed that the items submitted do not affect the Examiner's allowance of Claims 1-12, 14, 16 and 18-28 in his action dated February 17, 1999. Applicants respectfully request that a notice of allowance be issued pursuant to 37 CFR § 1.311.

A check in the amount of \$240.00 pursuant to 37 CFR § 1.97(c) and 1.17(p) is enclosed.

Respectfully submitted,


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REP:cls

Date: July 14, 1999

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